

MEMBERS PRESENT

Peg Birney
Brian Callahan
Tom Chang, Alternate
Thomas J. Knips, Chairman
Robert LaColla
Sheila Lahey
Joel Sasser, Alternate

MEMBERS ABSENT

Robert Rahemba
David Stenger

OTHER PRESENT

John V. Andrews Jr., P.E., Town Engineer
Maryann Johnson for J. Theodore Fink, AICP, Town Planning Consultant
John A. Morabito, Town Planning Consultant
Scott L. Volkman, Esq., Town Planning Board Attorney
Michael Gillespie, P.E.
William H. Povall III, P.E.
Kenneth Davies, Jr.
Ziggy Rutan
Peter Loyola
Wayne Akstin
Scott Gance
Joseph Modafferi
Liz Dreeban
Katherine Griffin

The meeting was called to order at 7:03 p.m. by Thomas J. Knips, Chairman. Mr. Knips appointed Mr. Chang, Alternate and Mr. Sasser, Alternate to fill in for Mr. Rahemba and Mr. Stenger this evening.

REVIEW**COUNTRY INNS & SUITES - SITE DEVELOPMENT PLAN**

Mr. LaColla recused himself from this discussion and left the meeting room.

Mr. Andrews reviewed his memorandum to the Board dated February 23, 2006; a copy of this memorandum is attached to the original minutes.

Mr. Gillespie stated they are currently working on some of Mr. Andrews' comments. Mr. Gillespie stated they have approached the Fishkill Rural Cemetery to see if they can obtain an easement for grading.

Mr. Andrews indicated that the Dutchess County Department of Planning and Development has provided a memorandum dated February 23, 2006; a copy of this memorandum is attached to the original minutes. Mr. Knips asked Mr. Gillespie if he received a copy of the memorandum; Mr. Gillespie stated yes.

Mr. Morabito reviewed his memorandum to the Board dated February 23, 2006; a copy of this memorandum is attached to the original minutes.

FINAL

REVIEW
COUNTRY INNS & SUITES - SITE DEVELOPMENT PLAN

Mr. Colsey reviewed the memorandum received from Dutchess County Department of Planning and Development as mentioned by Mr. Andrews previously this evening.

Mr. Marino stated the Rombout Fire District has three (3) concerns. Mr. Marino stated they are very concerned with the entrance as it does not appear that the turning radius will allow a fire truck. Mr. Marino stated that they wish to have a path completely around the building for fire apparatus which is consistent with all hotels currently in the Rombout Fire District. Mr. Marino stated they are requesting that the applicant petition the Rombout Fire District for inclusion in the ladder zone.

Mr. Gillespie stated he is going to take the comments regarding turning radius, the repositioning of the building and discuss options with the applicant. Mr. Gillespie stated there is an issue with the height of the building and that he may have to go to the ZBA for the height and possibly an area variance. Mr. Gillespie asked if he can pursue with the ZBA or if he should wait. Mr. Andrews stated when it is strictly the height issue the custom and practice of the Board has been that the applicant is free to pursue with the ZBA. Mr. Andrews stated as far as the area variance, it has been the custom and practice of the Board to see further details first. Mr. Andrews stated that he would recommend that Mr. Gillespie not pursue this with the ZBA until this project moves further along. Mr. Andrews stated the Board will need to circulate for Lead Agency but does not have enough information and details to begin the process yet.

PUBLIC HEARING
LANDS OF KENNETH W. DAVIES, JR. - SUBDIVISION

The public hearing was called to order by the Board at 7:30 p.m. Mr. Knips read aloud the Notice of Public Hearing.

Mr. Povall introduced himself as the engineer for the applicant and stated that the applicant is seeking approval to subdivide a parcel totaling 5.04 acres into two (2) lots. Mr. Povall stated that approximately 5.01 acres lies within the Town of Fishkill and approximately 0.03 acres lies within the Town of East Fishkill. Mr. Povall stated that Lot 1 will consist of 1.03 acres and Lot 2 will consist of 4.01 acres. Mr. Povall stated that the parcel for this proposal is located at 330 Carey Road, in the R-40 and R-4A Zoning Districts.

Mr. Povall stated there is an existing house with an existing driveway which will remain on Lot 1. Mr. Povall stated that a new driveway will be constructed for Lot 1 and a new house will be constructed on Lot 2 with a new driveway.

Mr. Knips asked if there were any question, comments or concerns regarding this proposal. Mr. Marino asked if the driveways meets Town Code; Mr. Povall stated yes.

Mr. Knips asked if there were any further question, comments or concerns regarding this proposal. There was no response from those in general attendance.

FINAL

PUBLIC HEARING
LANDS OF KENNETH W. DAVIES, JR. - SUBDIVISION

Mr. Andrews reviewed the Lead Agency Circulation response received from the Town of East Fishkill and noted that the comments should be addressed by the Applicant.

Mr. Andrews stated Ms. Johnson asked last time if we can entertain the idea of one common driveway, creating less of a disturbance. Mr. Povall stated this plan was prepared for the applicant as it was his preference. Mr. Davies, the applicant, stated he felt the value of the individual lots will hold better if they each have their own driveways. Mr. Davies stated he defers to Mr. Povall his engineer on this. Ms. Johnson stated that the Town of Fishkill does have a steep slopes law so to minimize the disturbance one driveway would work.

Mr. Andrews stated both he and Ms. Johnson felt the issue of a common driveway was worth bringing up this evening and does not have a preference as to a common driveway or separate driveways. Mr. Andrews stated he and Ms. Johnson did not want to fail to have the Board take a look at the common driveway idea.

Mr. Davies stated frankly it would probably cost him less money to keep the existing driveway the way it is, but to maximize the value of the lots he believes separate driveways are warranted. Ms. Johnson stated it will ultimately be up to the Board as to the common driveway or separate driveways. Ms. Johnson stated that this Board would give a positive recommendation to the ZBA as to a variance for not having access over its own frontage.

Ms. Johnson reviewed Mr. Fink's memorandum to the Board dated February 23, 2006; a copy of this memorandum is attached to the original minutes.

Mr. Knips asked if there were any further question, comments or concerns regarding this proposal. There was no response from those in general attendance.

Mr. LaColla made a motion that the Board close the public hearing at 7:43 p.m. Seconded by Mrs. Lahey. Motion carried.

Mr. Andrews reviewed his memorandum to the Board dated February 23, 2006; a copy of this memorandum is attached to the original minutes.

Mr. LaColla made a motion that a Negative Declaration and a Resolution of Preliminary and Final Approval be drafted for review and the March 9, 2006 meeting. Seconded by Ms. Birney. Motion carried.

PUBLIC HEARING
DUTCHESS GASTROENTEROLOGY - AMENDED SITE DEVELOPMENT PLAN

The public hearing was called to order by the Board at 7:49 p.m. Mr. Knips read aloud the Notice of Public Hearing.

FINAL

PUBLIC HEARING
DUTCHESS GASTROENTEROLOGY - AMENDED SITE DEVELOPMENT PLAN
(CONTINUED)

Mr. Rutan stated that he is seeking approval to amend the existing Site Development Plan approval for the reconfiguration of the entrance of 400 Westage Business Center Drive to better define the perimeter road to service 500 Westage Business Center Drive and 600 Westage Business Center Drive properties. Mr. Rutan stated that the project consists of the installation of new curb and asphalt, new stops signs, pavement markings, new landscaping with islands within the reconfigured entrance and there will be some curb and asphalt demolition. Mr. Rutan stated that the parcel for this proposal is located at 400 Westage Business Center Drive, in the PSC (Planning Shopping Center) Zoning District and consists of 7.62 acres.

Mr. Andrews stated he has received revised drawings from Mr. Rutan this evening which seem to comply with his comments and Mr. Morabito's comments.

Mr. Knips asked if there were any questions, comments or concerns regarding this proposal. There was no response from those in general attendance.

Mr. LaColla asked if someone is coming out of the Mack-Cali building and going over to the medical building for a test, is there a pedestrian path delineated to get there. Mr. Andrews stated most people do not use the sidewalks coming out of the Mack-Cali building, a crosswalk can be added but it won't do anything as there is no sidewalk on the other side. Mr. Rutan stated they can stripe the area and pick it up at the existing sidewalk. Mr. Knips asked if there is a concern with sight distance here; Mr. Morabito stated he didn't believe there would be a problem with the reconfiguration.

Mr. Knips asked Mr. Marino if the Rombout Fire District is happy with this driveway reconfiguration; Mr. Marino stated yes.

Mr. Knips asked if there were any further questions, comments or concerns regarding this proposal. There was no response from those in general attendance.

Mr. LaColla made a motion that the Board close the public hearing at 7:57 p.m. Seconded by Mrs. Lahey. Motion carried.

PUBLIC HEARING
THALLE INDUSTRIES - AMENDED SITE DEVELOPMENT PLAN

The public hearing was called to order by the Board at 7:59 p.m. Mr. Knips read aloud the Notice of Public Hearing.

Mr. Loyola stated the Applicant is requesting approval to amend the existing Site Development Plan approval to remove three (3) existing maintenance/storage structures which are in poor condition and replace them with a new 60' x 100' maintenance building. Mr. Loyola stated that the parcels for this proposal are located at 172 Route 9, in the PI (Planned Industry) Zoning District and consist of 72.16 acres.

FINAL

PUBLIC HEARING
THALLE INDUSTRIES - AMENDED SITE DEVELOPMENT PLAN
(CONTINUED)

Mr. Loyola stated based on the comments they received at the last Planning Board meeting they are now going to adhere to the setbacks as required in the Town Code.

Mr. Knips asked if there were any questions, comments or concerns regarding this proposal.

Mr. Marino stated that the preference of the Rombout Fire District is to be able to get around the entire building with their fire apparatus. Mr. Marino asked that the retaining wall be moved back closer to the property line. Mr. Marino stated they are looking for a width to allow a fire truck to get through which can be done with as little as 15' to 16'.

Mr. Andrews asked if the retaining wall is absolutely necessary as you may be able to reslope the area. Mr. Akstin stated that can be done. Mr. Marino stated that if the area can be resloped and the fire district will not have an issue.

Mr. Knips asked if there were any further questions, comments or concerns regarding this proposal. There was no response from those in general attendance.

Mr. LaColla made a motion to close the public hearing at 8:07 p.m. Seconded by Mrs. Lahey. Motion carried.

Mr. Andrews stated that he received revised drawings this evening and that it is probably appropriate to review the Negative Declaration that Mr. Morabito has prepared.

Mr. Morabito reviewed the Negative Declaration.

Ms. Birney asked if the containers will be removed and then returned and reused. Mr. Akstin stated they will not take the containers back.

Mrs. Lahey asked what the colors of the building will be. Mr. Akstin stated they would like to use Hunter Green on the roof and Sandalwood on the exterior of the building. It was the consensus of the Board that these colors were acceptable.

Mr. LaColla made a motion that the Board adopt the Negative Declaration. Seconded by Mrs. Lahey. Motion carried.

Mr. LaColla made a motion that the Board prepare a Resolution of Preliminary and Final Approval for review at the March 9, 2006 Planning Board meeting. Seconded by Mrs. Lahey. Motion carried.

REVIEW
WESTAGE LOT 5 HOTELS - SITE DEVELOPMENT PLAN

Mr. Andrews read aloud condition number 14 of the Resolution of Final Approval. Mr. Andrews stated we see this as a two (2) part condition.

FINAL

REVIEW
WESTAGE LOT 5 HOTELS - SITE DEVELOPMENT PLAN
(CONTINUED)

Mr. Andrews stated there are a few items in the traffic study which need to be considered by the Board. Mr. Andrews stated that the first item in the traffic study which does not go away and the second part deals with the improvements. Mr. Andrews stated the first part of condition number 14 is being moved forward by the application for Dutchess Gastroenterology and due to the fact that the contract sale has an escrow. Mr. Andrews stated there is a letter from Mr. Livshin dated January 27, 2005. Mr. Andrews stated this letter is vague and he has instructed Mr. Rutan that a new letter is required detailing dates of completion. Mr. Andrews stated if the letter was received it would have satisfied the second part of condition number 14 and we told the applicant that we would not speak for the Board. Mr. Rutan stated the letter was being prepared but he has not received it.

Ms. Birney stated the original condition 14 said this had to be done before a Certificate of Occupancy is issued. Mr. Andrews stated no that is the second half of condition number 14.

Mr. Andrews stated the reason they are back here is that we all discussed it and determined that we could write a letter but the letter can't be written until the Planning Board states that this fulfills their intent.

Ms. Birney stated we don't have the letter from Mr. Livshin. Mr. Rutan stated you do have a letter but not one with the dates. Ms. Birney stated with all due respect Mr. Livshin has made other promises to the Board.

Mr. Rutan stated he is asking the Chairman to waive condition number 14 of the Westage Lot 5 Hotels and condition number 10 from the Dutchess Gastroenterology.

Mr. Gance stated that the maintenance association has no motivation to satisfy us as they don't benefit from anyone buying this land. Mr. Gance stated going through the doctors or him is not going to motivate them at all. Mr. Gance stated he has verified that the funds have been allocated for the maintenance of the road.

Ms. Birney asked what options this Board has to try to have some of these things done and accomplished. Mr. Volkman stated the Town does have some leverage based upon the PSC Zoning requirements in the Town Code and that there is an agreement. Mr. Volkman stated that the Town does have enforcement ability to compel them to undertake their maintenance responsibilities under the code which he is comfortable with.

Mr. Volkman stated he is not sure we are looking to eliminate the condition 14 entirely. Mr. Rutan stated right, we are looking to revise it. Mr. Gance stated if a letter can be written subject to getting a letter from Mr. Livshin it would satisfy his loan.

Mr. Andrews stated Mr. Gance made a statement which was relied on to move this project forward. Mr. Andrews stated item number 1 is the Dutchess Gastro road realignment; there are further protections internally and the other issue is the repair of the internal road which falls on another section of the Westage Business Center.

FINAL

REVIEW
WESTAGE LOT 5 HOTELS - SITE DEVELOPMENT PLAN
(CONTINUED)

Mr. Andrews stated that Mr. Livshin is the head of the Westage Business Center Maintenance Association, of which Mr. Rutan and soon Mr. Gance will become a member so they are representing that the president, Mr. Livshin is going to give you a date for completion.

Mr. Knips stated that it is really up to the Town to take action against the Maintenance Association if they are not satisfied with the upkeep; Mr. Volkman stated yes.

Mr. Gance stated his lenders are indicating that he cannot get to a closing without condition number 14 being satisfied.

Mr. LaColla asked if we have all the pieces in front of us to make this work; Mr. Andrews stated yes. Mr. Andrews stated we need a firm promise from Mr. Livshin and once we get that we need an opinion.

Mr. Andrews suggested that Mr. Colsey not be allowed to issue a letter until a letter is received from Mr. Livshin indicating dates of completion of the road. Mr. Andrews stated the first part of condition number 14 remains but a letter will need to be devised showing satisfaction of the second part of condition number 14.

Ms. Birney made a motion that the letter be drafted upon receipt of such letter from Mr. Livshin and that it meets the requirements of both Mr. Andrews and Mr. Volkman before it is signed and mailed. Seconded by Mr. LaColla. Motion carried.

Mr. Andrews stated he will circulate language to the Board and have Mr. Colsey sign the letter once it is ready.

REVIEW
DUTCHESS GASTROENTEROLOGY - AMENDED SITE DEVELOPMENT PLAN

Mr. Morabito reviewed the Negative Declaration.

Mr. LaColla made a motion that the Board adopt the Negative Declaration. Seconded by Mrs. Lahey. Motion carried.

Mr. Colsey reviewed the Resolution of Preliminary and Final Approval.

Mr. Knips indicated the date of the public hearing should be amended to read February 9, 2006.

Mr. Colsey indicated that the adoption date of the Negative Declaration of February 9, 2006 shall be included.

Ms. Birney made a motion to waive the final public hearing. Seconded by Mrs. Lahey. Motion carried.

FINAL

REVIEW
DUTCHESS GASTROENTEROLOGY - AMENDED SITE DEVELOPMENT PLAN
(CONTINUED)

Mr. Andrews stated condition number 8 goes with condition number 14 of Westage Lot 5 Hotels and he recommends that it be removed from this Resolution of Approval. Mr. Andrews indicated that this should become a “Whereas” that the Board is accepting and approving this in regards to the Westage Lot 5 Hotels proposal.

Mr. Volkman stated he believes the security is in the other Resolutions that have been adopted by the Board. Mr. Knips stated this activity can be approved and built without the others. Mr. Andrews stated yes.

Mr. Colsey stated he will revise the condition numbers that need to be satisfied prior to the Chairman signing the Site Development Plans.

Mr. Colsey stated condition number 8 will become a “Whereas” and a new condition number 8 will be added regarding the crosswalk.

Mr. Rutan indicated that he agreed with the amendments as discussed this evening.

Ms. Birney made a motion that the Board adopt the Resolution of Preliminary and Final Approval as amended during the course of discussion this evening and that the Chairman sign it when it is ready. Seconded by Mr. LaColla. Motion carried.

REVIEW
RAINBOW RIDGE PET CEMETERY - AMENDED SITE DEVELOPMENT PLAN
& SPECIAL USE PERMIT

Mr. Andrews stated condition number 5 deals with the shed and stated that the Tax Map Parcel Number needs to be added for the property that the shed is on and that we add that it be removed prior to the issuance of a certificate of occupancy. The Board and the Applicants agreed with this amendment.

Mr. Andrews stated on condition number 6 he defers to Mr. Volkman. Mr. Volkman stated conceptually we have reached an agreement and he is reviewing a draft of such easement at this time. Ms. Dreeban stated they have a problem with testing the septic system as it belongs to Mr. Goodwin and he won't let them test it.

Mr. Andrews stated the applicant needs to hold the Town harmless and that is fine so long as this condition is reworded to indicate we are not granting any permission to this septic system.

Mr. Andrews stated this piece of property has something that belongs to someone else with no legal reason for it. Mr. Andrews stated we need to come up with language that says the Town is held harmless. Mr. Andrews stated the only way this approval can be granted is for the applicants to hold the Town harmless from any lawsuits.

FINAL

REVIEW
RAINBOW RIDGE PET CEMETERY - AMENDED SITE DEVELOPMENT PLAN
& SPECIAL USE PERMIT
(CONTINUED)

Mr. Modafferri asked if the condition can be rewritten to include language that says what happens if the easement is not granted. Ms. Dreeban stated they have no problem granting an easement but they cannot do so without testing the system which Mr. Goodwin is not cooperating with.

Mr. Andrews suggested that the Applicant consult with their counsel and that he contact Mr. Volkman as to the rewording of the condition. The Board agreed and the Applicants agreed with Mr. Andrews.

Mr. Andrews stated on condition number 11 where "the Planning Board has determined" is written, the whole sentence should be stricken as the Board has already referred this to the ZBA. The Board and the Applicants agreed with Mr. Andrews.

Mr. Andrews stated the conditions that need to be satisfied prior to the signing of the plans need to be revised. The Applicants agreed with Mr. Andrews.

Mr. LaColla made a motion that the Board adopt the Resolution of Final Approval as amended during the course of discussion this evening and that the Chairman sign it when Mr. Volkman approves the language of the rewording of condition number 6. Seconded by Ms. Birney. Motion carried.

Ms. Dreeban and Ms. Griffin consented to the motion made by the Planning Board.

REVIEW
ZBA REFERRAL - APPLICATION NO.: ZB06-003 - 142 RIVERVIEW DRIVE

It was the consensus of the Board that this variance not be granted by the ZBA.

FEBRUARY 9, 2006 PLANNING BOARD MEETING MINUTES

Mr. Knips stated the Chair will entertain a motion to adopt the February 9, 2006 Planning Board Meeting Minutes as amended. So moved by Mr. LaColla. Seconded by Mrs. Lahey. Motion carried.

Mr. LaColla made a motion that the close the meeting at 9:30 p.m. Seconded by Ms. Birney. Motion carried.

Respectfully submitted,
Debbie Davis
Planning Board Secretary

Attachments to the original minutes

FINAL